



# WISCONSIN REGULATORY DIGEST

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## New Caregiver Law 1997 WI Act 27 (Biennial Budget)

On October 1, 1998, a new Wisconsin law went into effect which provides new and stringent checks of the backgrounds of persons who provide care for others or have access to persons receiving care.

Beginning on October 1, 1998, the state of Wisconsin mandated that background checks will be required for all persons who seek to be employed in the caregiving industry and for all persons who want to obtain or renew a license to provide care. By October 1, 1999, all existing employees/contractors and license holders must have fulfilled the caregiver background check requirements.

A completed background check as prescribed under Wisconsin's law includes:

- \* A completed self-disclosure Background Information Disclosure form;
- \* An electronic status check of professional licenses and credentials through the Department of Regulation and Licensing;

- \* An electronic criminal history search from the Wisconsin Department of Justice;
- \* An electronic review of records kept by the Department of Health and Family Services for any substantiated findings of abuse or neglect and license restrictions or denials.

Based on the information obtained, additional research may include an out-of-state criminal history search, a tribal court criminal history search, a check of relevant military records or a check of county or other local records.

Once the background research is complete, employers and government agencies are expected to act according to the requirements of the new law coupled with prudent business practices. These new background checks will be used by the state in making employment and licensing decisions since various studies have shown predictable patterns of abuse, neglect and misappropriation. Therefore, a background which includes specific crimes and offenses will effectively exclude individuals from certain employment or prohibit them from obtaining a license to practice certain professions.

Those who wish to obtain more detailed information regarding the new law may do so through accessing the following web site: "[www.dhfs.state.wi.us](http://www.dhfs.state.wi.us)" and click on "News & Initiatives."

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## **Board Promulgates New Rules**

On April 19, 1999 the Board adopted amended administrative rules in a number of areas. Changes include the following:

Qualifications of persons supervising psychological trainees. The current rules require that supervisors be licensed or license eligible psychologists, and that they be competent to provide any psychological service that the psychological trainee undertakes. The board has become aware that supervision is occasionally being carried out by inexperienced persons who may not be minimally qualified to carry out the required supervisory responsibilities. The proposed rule creates such minimum qualifications, primarily by requiring that supervisors be licensed psychologists who have had at least three years of post-licensure professional experience.

Licensure by comity. The old rules provide that applicants licensed in another state must meet the same application requirements as new applicants, except that the EPPP may be waived if the requirements for licensure in the applicant's original state of licensure were substantially equivalent to the requirements in Wisconsin at the time of original licensure. The new rule simplifies the process for certain such applicants by eliminating the requirements that they submit transcripts, documented experience forms, supervised experience forms, and proof of having completed the EPPP. Applicants eligible for the simplified licensing process include those who are licensed in a state which is signatory to the agreement of reciprocity agreement of the Association of State and Provincial Psychology Boards (after Wisconsin becomes signatory thereto); those who hold the Certificate of Professional Qualification in Psychology issued by ASPPB; and those who qualify as senior psychologists because licensed for twenty years or more in a state whose requirements at the time of original licensure were comparable to Wisconsin's, and who have never been professionally disciplined.

Approval of Continuing Education programs The board has struggled with the continuing education approval process since the inception of the C.E. requirement. That struggle has involved not only a large expenditure of time, but has also involved the board's inability to determine or monitor the quality of continuing education programs presented by private sponsors. It is simply not possible to gather and process all the information necessary to ensure that a sponsor whose

application apparently meets the minimum requirements established by the present rule in fact meets those requirements -- much less whether the program as presented may in fact be of any real benefit to attendees. Under the new rules, the board will approve program sponsors rather than individual programs. These will include continuing education programs sponsored or co-sponsored by a presenter approved by the Committee for the Approval of Continuing Education Sponsors of the American Psychological Association, educational programs approved as "Category I" continuing medical education programs by the Council on Medical Education of the American Medical Association or the American Osteopathic Association, and graduate level courses or continuing education courses relevant to the professional practice of psychology offered by accredited colleges and universities. In the case of a Wisconsin licensee practicing in another state, the board will also approve continuing education courses approved by the psychology licensing board in that other state.

Continuing Education Audits. The board requires that licensees at the time of biennial renewal of their licenses certify to having completed 40 hours of board-approved continuing education. In auditing licensees under investigation for allegations of misconduct, the board has found that a significant number of such licensees have not in fact completed required continuing education. The board has therefore proposed a rule that would provide for a random audit of ten percent of all licensees during each biennial licensing period.

Unprofessional conduct. The board's current rules of conduct define as unprofessional conduct conviction of a crime the circumstances of which substantially relate to the practice of psychology, but do not define as unprofessional conduct adverse action by the psychology licensing board in another state. The new rules provide that an adverse action in another state is also a basis for discipline in this state.

## **Update on Mobility for Psychologists in Wisconsin**

The Association of State and Provincial Psychologists (ASPPB) has several programs to ease the licensing process for psychologists that want to move to a different state or province. The Wisconsin Psychology Examining Board has approved legislative and administrative rule changes to facilitate mobility.

The Certificate of Professional Qualification (CPQ) allows an individual psychologist to document their training and experience to allow for a simplified licensure process in jurisdictions that recognize the CPQ. This program is less than a year old; however, a number of licensing boards have already voted to approve it. The Wisconsin Board has drafted administrative rules which would allow the acceptance of this credential. A public hearing on these rule changes was held in January, 1999. It is anticipated that these rules may be adopted within the next few months, unless there is legislative objection. Psychologists in Wisconsin do not need to wait for adoption to apply for the CPQ. Because of some grand-parenting provisions which will expire at the end of 2000, it may be an advantage for some psychologists to review the application process before that time.

The ASPPB Reciprocity Agreement is an agreement between licensing boards to accept for licensure any doctoral level licensed psychologist from any other jurisdiction that is a member of the agreement, provided that psychologist has not been disciplined and has been in practice for at least five years. Because this is an agreement between jurisdictions, the rules and statutes of any state or province that wants to join the agreement must meet the standards of the agreement. The Wisconsin Board, due to the hard work of former Board Chair, Rebecca Bardwell, Ph.D. has applied for membership in the agreement, and is currently undertaking rule and statute changes requested by the ASPPB Reciprocity Agreement. The rule changes went through public hearing in January, and are awaiting adoption by the board, unless there is legislative objection. The statute changes have been drafted, and are awaiting introduction by a legislative sponsor.

### **National Licensing Exam Will Be Computerized**

The EPPP examination, required by most states and Canadian provinces in order to be licensed as a psychologist, is currently offered twice a year as a written examination. The Association of State and Provincial Psychology Boards (ASPPB), which is responsible for the examination has been developing a computer administered version of the examination. Beginning in April, 2000 the exam will be administered on a continual basis through a variety of computer testing centers throughout the U.S. and Canada. Some states may choose to offer the written version of the test as an alternative for up to two years. Most states and provinces (including Wisconsin) will offer the exam only in the computerized form after that date.

There will be several procedural changes that result from this change. As always, applicants are

admitted to the examination only after a licensing board has reviewed the application and determined that he/she is eligible to take the exam. Currently the applicant is admitted to an exam administration on a particular date (April or October of each year), at a specific location. With the computerized administration, the applicant will receive an authorization to take the examination, and will then call the testing center to arrange a time and location for the exam. ASPPB is currently evaluating several exam administration vendors, and expects to reach a final contract later in 1999. One requirement is that the vendor must have at least one (and in most cases several) exam centers in each state and province. This should allow for greater convenience for applicants.

The basic content, structure and emphasis of the examination will be unchanged. Items will be presented sequentially from one of four fixed forms of the exam available at any one time. However, there will be 225 items rather than the current 200. Rather than a flat percent correct score, the score will be a scaled score, to ensure equivalency between the forms currently available. The scaling will be developed to ensure that the passing score is equivalent to a 70% score on the current written exam. The scaled scoring will most likely be similar in characteristics to the scaling for the GRE exam, with a passing score of 500, and a maximum of 800, minimum of 200.

Final decisions have not been made about how many times and how frequently any one applicant may take the examination. However, no applicant will be able to take any one form of the exam more than once. There will be four forms available at any one time, with one form being replaced with a new one every six months.

### **‘SCOPE OF PRACTICE’ Revisited**

By James F. Fico, Ph.D.

The December 1998 volume of the Wisconsin Regulatory Digest included an article describing how a psychologist might expand his or her “scope of practice”. One subsequent question posed by a licensee was “Since psychologists have a generic license, is there any statutory justification for limiting a psychologist’s practice to areas in which the psychologist has sufficient training?”

The answer is “yes”. Psychologists are specifically limited to practice only in those areas in which they have received sufficient training and supervised practice. In the Administrative Code that govern the practice of psychology, Chapter Psy 5, entitled CONDUCT, and subheaded PSY 5.01 Professional conduct, the following activities “may lead to disciplinary proceedings”:

(3) Misrepresentation of professional competency by offering to perform services that are unwarranted on the basis of education, training or experience.

(4) Performance of professional services inconsistent with training, education or experience.

National publications sometimes confuse the matter by suggesting that one area of practice automatically prepares psychologists for another area. For example, the January/February issue of *The National Psychologist* included an article on its page 24 entitled "The Psychologist as Executive Trainer" by North Carolina psychologist Kathryn Williams, Ph.D. The author, in part, indicated that "One of the best training grounds for prospective executive trainers is in the area of family counseling". The Psychology Examining Board considers supervised practice in family counseling to be good preparation for providing family counseling. "Executive training" is part of industrial-organizational psychology. In order to provide executive training, a psychologist must first, or concurrently, receive training and supervised experience in areas directly related to executive training. The supervisor must be qualified in I-O psychology.

The Board encourages licensees to remain familiar with Wisconsin statutes and rules governing the practice of psychology. The expansion of a psychologist's practice remains an option, but only when the psychologist can first obtain education and supervised experience in the new area.

#### **Exam Fee Increase in April 1999**

The fee charged for the Examination for Professional Practice in Psychology (EPPP) increased to \$350 U.S. per candidate effective April 1, 1999. The increase was the first of two intended to cover costs associated with computerizing the EPPP and other ASPPB projects. It has been five years since the last exam fee increase.

The ASPPB Board of Directors expects significant costs in moving to a computerized examination. The board voted in April 1997 to increase the exam fee \$100 as of April 1, 1999; however, this will not cover the additional cost of each exam once the computerized version is available, and a second increase is expected.

#### **Department Overview**

##### **by Secretary Marlene A. Cummings**

As Secretary of the Wisconsin Department of Regulation and Licensing, I am frequently asked for information about the department and believe that it is useful from time to time to discuss the structure and philosophy which guides the work of this

department as well as providing information of the department's current strategic business goals.

The Department of Regulation and Licensing is an umbrella agency, which provides services to over 20 boards. These boards are responsible for the regulation of a wide variety of professions and the department independently regulates many other professions, occupations and entities. There are basically three different regulatory activities provided by the boards and the department. They are: 1) the application and examination process; 2) defining what the credentials entitles the credential holder to do through scope of practice; professional conduct and professional ethics written into administrative code, and; 3) enforcement.

One of the more unique oversight board arrangements in the department is the joint board which regulates professional engineering, architects, landscape architects, designers and land surveyors. This joint board is in the Division of Business Licensure and Regulation. The division is divided into two bureaus to allow for more direct service staff to become better acquainted with the issues surrounding each profession.

This board, along with all other boards in the department, set standards of professional competence and conduct for the profession under its charge; prepares, conducts and grades the examinations of prospective new practitioners; grants licenses; investigates complaints of alleged unprofessional conduct; and performs other functions assigned to it by law. One of the most important departmental responsibilities is to assist the boards in discharging these duties.

In addition the department also:

- \* Acts as a conduit for professions and their interaction with other state agencies or the governor's office.
- \* Has broadened its enforcement authority to respond more effectively and efficiently to complaints of unlicensed practice. Through the administrative injunction process, the department is able to effectively enforce licensure requirements.
- \* Is in the process of using new technology to upgrade our services to customers through expanded use of automated telecommunications services and by facilitating electronic transmission of information via the internet.
- \* Is exploring more opportunities for seminars and information exchanges with professional

credential holders and their statewide associations to learn more the professions and how we can provide better services.

### **Division of Enforcement**

A critically important component of the role played by the Department of Regulation and Licensing (DORL) in overseeing professions subject to licensure and regulation is the Division of Enforcement (DOE), headed by Jack Temby.

The DOE is a large division comprised of attorneys, investigators and support staff. Their primary mission is to conduct investigations of complaints received by the department concerning the conduct of persons holding professional credentials or licenses issued by the department. In the most recently completed biennium (1995-97) more than 4,400 complaints were received and processed by the division. When appropriate, complaints are resolved through mediation. However, if it appears there has been a violation of the laws enforced by the boards or department, formal disciplinary action may be commenced against the credential holder involved.

There are four distinct phases of the case handling process and are as follows:

- \* **Intake Stage:** This is the first stage in the case handling process. Cases are screened by screening panels to determine if an investigation is warranted. Cases that do not warrant investigation are quickly closed. Cases that appear to have merit are identified for investigative action.
- \* **Investigation Stage:** This is the next stage in the case handling process. Investigative staff gather necessary evidence and make contacts with witnesses as needed. The results of the investigation are discussed with a case advisor and a department attorney. Cases that do not warrant professional discipline are closed. Cases with violations proceed to the next stage for legal action.
- \* **Legal Action Stage:** In this stage, department prosecuting attorneys, in conjunction with case advisors, review the results of the investigation and pursue disciplinary action when appropriate. Cases may resolve by

means of stipulated agreements, informal settlement conferences or letters of concern.

- \* **Hearing Stage:** The last stage is the hearing Stage. This is a formal legal process. The department attorney litigates the case before an administrative law judge. The law judge makes a proposed decision which is reviewed by the licensing board. If a violation is found, discipline may be imposed. Disciplines include reprimand, limitation, suspension and revocation.

To file a complaint you may contact the Division of Enforcement by calling (608) 266-7482 or (608) 266-3736, or write the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935.

## **ALERT ALERT ALERT**

**The next renewal for Psychologists will be September 30, 1999. Renewal Notices will be mailed about 6 weeks prior to that date. Any required continuing education must be completed by this date. Please remember to include your Social Security Number on your renewal form. Update your name or address changes by August 1, 1999.**

# REGULATORY DIGEST

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**Automated Phone System for Chiropractic, Acupuncture, Marriage & Family Therapists, Massage Therapists and Bodyworkers, Music, Art and Dance Therapists, Nursing, Optometry, Professional Counselors, Psychology, & Social Workers: (608) 266-0145**

Press 1, then 4    **Application Requests for License & Continuing Education**

Press 2            **Information on Status of Pending Applications.**

Press 3            **Information on Renewal, Verifications, Letters of Good Standing & Name or Address Changes.**

Press 4            **Complaint Filing Information**

Press 5            **Application Questions**

Press 6            **Repeat Menu Choices**

**FAX                (608) 261-7083**

## Quick Keys

The following are voice mail **“short cuts.”**

To request a license application for your profession, just dial (608) 266-0145, then enter the Quick Key numbers below for the profession you want:

- 1-4-1            Doctoral in Psychology
- 1-4-2            Cont. Ed. Information/Application
- 1-4-3            Private Practice School Psychologist

## Verifications

All requests for verification of license status must be in writing. There is no charge for this service.

## Endorsements

Requests for endorsements to other states must be in writing. The cost is \$10. Please make check or money order payable to the Department of Regulation and Licensing.

## Meeting Dates:

1999: 9/1, 10/8, 11/8, 12/7.

## Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>  
Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

## Digest on Web Site

December, 1997, June, 1998 and December, 1998